

April 19 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
Telephone (206) 296-4660
Facsimile (206) 296-1654

REVISED REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L97AC046**

WOODINVILLE WATER DISTRICT
Conditional Use Permit Appeal

Location: 17238 NE Woodinville-Duvall Road, Woodinville

Applicant: Woodinville Water District, *represented by*

Robert Bandarra, General Manager

PO Box 1390

Woodinville, WA 98072-1390

Phone:(425) 483-9104/#303/Fax: (425) 483-0327

Rosemary A. Larson, Esq.

777-108th Avenue NE Ste 1900

Bellevue, WA 98009-

Phone:(425)455-1234/Fax:635-7720

Appellant: **Barbara Kelson**, *represented by*

PO Box 1343

Woodinville, WA 98072

Fax: c/o Tim Schriever (425) 485-1083

Brent Carson, Esq.

1011 Western Avenue, Ste 902

Seattle, WA 98104-1097

Phone:(206)382-9540/Fax:626-0675

King County: DDES, Land use Services Division, *represented by:*

Sherie Sabour

and

Gary Kohler

900 Oakesdale Avenue Southwest

900 Oakesdale Ave SW

Renton, WA 98055-1219

Renton, WA 98055-1219

Phone: (206)296-7112/Fax 206-7051

Phone:(206)296-7162/Fax 296-6613

SUMMARY OF RECOMMENDATIONS AND DECISION:

Department's Preliminary: Deny the appeal

Department's Final: Deny the appeal

Examiner's Decision: Grant the appeal

Revised Examiner's Decision: Deny the appeal

On remand, the appeal is denied; but the conditions of permit approval have been expanded to assure that

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the District's nonconforming use will be appropriately limited and offsite impacts adequately mitigated.

PRELIMINARY MATTERS:

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| Application submitted: | August 6, 1997 |
| Notice of appeal received by Examiner: | January 5, 1998 |
| Statement of appeal received by Examiner: | January 5, 1998 |

EXAMINER PROCEEDINGS:

| | |
|-------------------------|-------------------|
| Pre-Hearing Conference: | February 13, 1998 |
| Hearing Opened: | March 31, 1998 |
| Hearing Closed: | March 31, 1998 |
| Hearing re-opened: | March 31, 1999 |
| Hearing closed: | April 9, 1999 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Conditional use
- Non-conforming use

FINDINGS, CONCLUSIONS AND DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. A complete application was received from the Woodinville Water District on September 2, 1997 for a conditional use permit to expand its existing utility office and yard complex located at 17238 NE Woodinville-Duvall Road. The 9.7-acre parcel lies north of the Woodinville-Duvall Road in an area zoned RA 5, with residentially developed RA 2.5 zoned properties lying to the west and northwest. The adjacent property to the east is currently undeveloped.
2. The District's proposal includes the construction of a 6,800 square foot new administration building near the parcel's southeast corner, the removal of an older barn near the property's western boundary and its replacement with a new 2,800 square foot inventory building, a minor addition to its existing operations building, and the conversion of its existing administration building into a meeting facility. The total floor area within the currently existing buildings is 19,694 square feet, with an expansion to 24,563 square feet of floor area proposed under the conditional use permit application. The site plan identifies proposed parking facilities for 51 vehicles, an increase of 17 stalls over the existing level.

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The District's need for expanded office facilities is amply supported by the record, both within its testimony and in site photographs. The District currently has 29 employees working out of the site, and its expansion is expected to accommodate at least three further employees. However, the District's Comprehensive Plan predicts that its customer base will eventually more than double from present levels, which suggests the future possibility that the currently proposed expansion may also be outgrown.

3. The District provided its own SEPA review and issued a determination of non-significance on August 10, 1997. On December 15, 1997, the King County Department of Development and Environmental Services issued a conditional use permit to the Woodinville Water District approving the proposed facility expansion, subject to four conditions. Although the DDES decision notes that in 1968 when the Water District office use was established "the property was zoned G which did not permit water district offices", based on site history the Department viewed the District proposal as a non-conforming use and concluded that it would "now be inappropriate for the County to require the use to be relocated".
4. A timely appeal of the conditional use permit was filed by Barbara Kelson, a neighbor who resides adjacent to the western property line of the District site. A pre-hearing conference was held by the King County Hearing Examiner's Office on February 13, 1998, which was attended by District Manager, Robert Bandarra, and project engineer, Kenneth Pick, as well as Ms. Kelson and her engineer, Tim Schriever. The Examiner noted that the December 12, 1997, conditional use decision from DDES raised an issue as to whether the existing utilization of the property qualifies as a legal non-conforming use. The pre-hearing order requested DDES to provide the parties and to the Examiner a complete historical record of County permitting activity on the property going back to its initial purchase by the District in the 1960s in order that the issue of use legality would be adequately documented.

In addition to framing the question of whether a legal non-conforming use exists on the District's property, the pre-hearing order also identified the compatibility issues raised by the Appellant that would be subject to review under the conditional use standards stated at KCC 21A.44.040. Finally, the order noted that Ms. Kelson's challenges to the SEPA determination and the sufficiency of the Applicant's supposed septic system were beyond the jurisdiction of the Hearing Examiner to consider within this proceeding.

5. Only about 4 acres of the 10-acre Water District site are intensively developed. Three buildings and supporting parking facilities are constructed in the southern portion of the parcel adjacent to Woodinville-Duvall Road, with the northern half of the developed segment comprising largely a paved work area featuring an open equipment garage and materials storage bins. The easternmost portion of the built area is erected upon fill imported onto the site long ago consisting of materials excavated when the Woodinville-Duvall Road was built. In addition, in 1990 when the operations building and open garage were constructed, it was necessary to overexcavate their foundations in order to remove incompetent fill and replace it with approved structural material. Pursuant to the site grading plan, much of the old fill was deposited in the previously undeveloped area located on the northern half of the property.
6. As depicted in photographs taken by Ms. Kelson both in 1991 and more recently, it is apparent that large quantities of fill were deposited within onsite wetlands on the northern half of the

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District property. What is less clear is how much of this filling and grading occurred in 1990 and how much of it is recent activity. The photographs tend to suggest that most of the wetland filling probably occurred in 1990. Nonetheless, it is evident from the photographs and the testimony that filling and grading in this northern area has continued to be an ongoing District activity conducted without grading permits. Since both the Applicant's engineer, Mr. Pick, and the Appellant's engineer, Mr. Shriever, agreed that the actively-worked stockpile of fill on the site is approximately 200 cubic yards, this activity needs to be regulated by a King County grading permit regardless of whether it is within the wetland and its buffer or entirely outside such sensitive areas. This activity, however, is only indirectly related to the conditional use permit application under review; its remediation is a matter more properly taken up with DDES Code Enforcement officials.

7. As supplied by DDES staff, County records concerning Water District use of its property on the Woodinville-Duvall Road go back to September, 1968, when a Mr. Bannecker wrote the County Planning Department on behalf of the District inquiring whether its newly acquired parcel could be used for storage of Water District equipment and supplies. In October, Edward Sand, the County Planning Director, replied by letter, opining that the G-zoning on the property permitted its use for "public utilities facilities" and that the proposed storage would be allowed.
8. Ten years later in 1979, having converted the existing house and barn on the property into office and storage facilities, the District applied for a conditional use permit (File No. 79-62-C) to expand the office building from 1,350 to 4,150 square feet. The Zoning Adjustor's decision issued November 9, 1979, reviewed the history of the District's use of the property, stating that in 1968 "the property was zoned G (as it is now), which does not permit water district offices", but that "the Planning Department by letter advised the District that the property could be used for a water district office". Citing the District's reliance on the Planning Department's determination and its good faith development of the property, the Adjustor approved the conditional use permit on the basis that "expansion of the facility is necessary, so that the District can fulfill its responsibilities as a public utility..."
9. Another ten years passed and the Water District once more found itself outgrowing its facilities. As a consequence, in 1989 it again came in with a conditional use permit application to enlarge its operations. This time the expansion was major, involving construction of a new 5,400 square foot maintenance building, a 5,250 vehicle storage building, a 1,000 square foot fuel and wash facility, an 800 square foot storage pad for earth materials, and the installation of two 3,000 gallon underground storage tanks. Parking facilities were proposed to be expanded and a 20-foot wide strip of Type 1 landscaping was to be installed along both the west and the east property lines to create visual screening from adjoining properties.

Although its description of the existing facilities as including a 7,200 square foot office building appears to be a misstatement, the Building and Land Development Division staff report for the conditional use permit hearing indicates that during the previous ten years activities on the property had expanded to include the use of the barn as a maintenance shop and areas north of the barn as a work yard. Although the BALD Report observes that "the size and design of the proposed new buildings is not similar to the surrounding rural residential developments", it suggests that in the context of the overall property the proposed landscaping and setbacks would reduce possible negative visual impacts to an acceptable level.

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10. The Zoning Adjustor's March 2, 1990, decision for the File No. 89-69-C conditional use permit application noted that there was no opposition expressed to the District's request and found that "the District representative said that the proposal is in conformance with the zoning requirements". The Adjustor concluded that "the proposal is an expansion of a utility district facility which has been granted a conditional use permit for the existing facility" and was capable of being conditioned to meet conditional use criteria.
11. After reviewing the historical record, the Hearing Examiner concluded in a report and decision issued April 17, 1998, that the existing facilities and activities on the Water District site do not qualify as legally established non-conforming uses. The Examiner also concluded that further expansion of the District's operations would require the issuance of a conditional use permit based on the District's ability to meet current zoning regulations for establishment of a new utility office and yard. Because in the RA zone new utility offices may locate only if within the District boundaries no commercial or industrially zoned property exists, the Examiner ruled that a conditional use permit could not be issued under current regulations. Pursuant to this analysis, the Water District's conditional use permit application was denied.
12. The Examiner's decision to deny the conditional use permit application was reversed on appeal by a Superior Court Order and Judgment entered November 30, 1998. The Court ruled that the District's existing operations became established as a legal nonconforming use under zoning regulations in effect at the time of issuance of the 1990 conditional use permit. Because the Hearing Examiner in his April 17, 1998, decision did not reach the substantive requirements for issuance of a conditional use permit as set forth at KCC 21A.44.040, the Court remanded the application back to the Examiner for further review. The public hearing was reopened on March 31, 1999, for the receipt of additional evidence and argument regarding the District's ability to comply with requisite conditional use permit standards.
13. One of the Appellant's principal contentions has been that the Water District's current operations both violate the conditions of the 1990 conditional use permit and are far in excess of the levels of activity approved at that time. The Appellant argues that the existing conditions on the site for purposes of reviewing the impacts attributable to the District's proposal is the level of use legally established under the 1990 permit and must exclude any unpermitted expansions which have occurred since that date. The Appellant also contends that the feasibility of controlling impacts from District operations at this location needs to be assessed in the context of the District's flagrant disregard of the limits of past permit decisions.
14. As represented within the hearing record, the principal documents describing conditional use permit File No. 89-69-C consist of an environmental checklist, a rather lengthy staff report containing an analysis of the proposal and its impacts, and a brief Zoning Adjustor decision that adopts by reference the staff report. Based on these documents, there appears to be considerable merit to the Appellant's position.
15. In describing the Water District's proposal, the Building and Land Development Division's February 5, 1990, staff report states that "the facility would operate from 8:00 A.M. to 4:30 P.M., Mondays through Fridays" and that "the District will have 16 employees." The site employment figures are supported by the SEPA checklist submitted by the Applicant, while the checklist describes under the topic of light and glare "regular work hours between 6:00 A.M. and 6:00 P.M.". As explained by the testimony of District employees, the 8:00 A.M. to 4:30 P.M.

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timeframe relates to the hours during which the District office is open to the public, while during daylight saving hours maintenance yard employees report for a 7:00 A.M. startup in order to complete work by mid-afternoon. The 1990 staff report also relates that 27 parking spaces were proposed on the southern portion of the site next to the office building, although it appears that only 25 now exist. In addition, a further nine stalls have been placed near the northwest corner of the maintenance yard.

16. Because the Appellant's residence lies west of the District property at an elevation approximately 20 feet above the level of the maintenance yard, the issue of screening along the Applicant's western boundary has been a critical concern. Consistent with Code requirements, in 1990 the Applicant proposed to install a 20-foot wide sight-obscuring Type 1 landscaping screen along both the west and east property lines. Although plantings were made, it is beyond dispute that the screening provided was less than required and has been generally ineffective. First, the screening provided along the southerly 200 feet of the western property line adjacent to the front parking lot is only about 12 feet wide. Second, the northerly portion of this screen, while within a buffer area well in excess of 20 feet in width, was erratically installed and poorly maintained. In the northernmost part of the western boundary screen a small stand of deciduous trees that were left intact have hindered the growth of the evergreen plantings. Further south, in the precise location where the Kelson house looks down upon the District's maintenance garage, a 30 foot gap in the screen exists because the District did not want to plant trees on its septic drainfield. Finally, many of the evergreens that were planted are dead or stunted due to the fact that supporting guy wires were never removed and have choked the tree trunks. All of these factors have combined to result in a landscaping screen along the western boundary that is little more effective now than when it was first planted in 1990.
17. Related ordinance requirements pertaining to the siting of utility district offices contained in the Zoning Code in existence in 1990 and cited in the BALD report include prohibitions against open storage unless effectively screened and against overnight parking of district vehicles outside of enclosed structures. Current Water District practices include the routine violation of both of these code requirements.
18. Turning to the impacts of Water District site development that affect the Appellant most directly, it is important to note that Ms. Kelson's residence is set back some 500 feet from the Woodinville-Duvall Road. This means that the most severe impacts experienced by her are generated within the northern one-half of the developed portion of the District's site where the existing open air garage is situated, District vehicles are stored, and maintenance activities take place. Of the visual impacts experienced by Ms. Kelson, the most serious result from unscreened storage within the maintenance yard, unenclosed storage of vehicles, the absence of doors on the garage's west side, and the nearby view of the existing metal sheathed barn which is slated for removal.
19. Other visual impacts to the Kelson residence result from night time light and glare. The District maintains existing pole lighting in the southern portion of the property where the office facilities are located, as well as building-mounted security lighting in the northern maintenance yard area. In the past the maintenance yard security lighting has been directed towards the western property boundary and the Kelson residence. The District has recently redirected some of this lighting.

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For the most part light and glare impacts from the District property are capable of being mitigated. A lighting plan may be implemented as a permit condition which emphasizes low height bollard lighting in the front parking area and requires security lighting in the maintenance yard to be operated on a motion sensor system. If bollard lighting is installed in the front of the District's property and an adequate Type 1 screen provided along the western property boundary, the adverse effects on the Kelson property of occasional evening meetings at the District offices should be negligible.

20. Noise impacts to the Kelson property resulting from the operation of District trucks and earth moving machinery in the early morning hours and on some evenings and weekends is a more pervasive problem producing more serious consequences. To some degree these impacts can be reduced by installation of garage doors on the west side of the existing open air maintenance and storage facility. The more effective solution, however, is to require a cement block noise barrier wall to be constructed along the western edge of existing maintenance yard pavement. While the Appellant has argued for a wall which is 15 feet high based on a sound line study for a noise source located near the District's eastern property boundary, the intervening presence of the existing maintenance building means that the principal focus of sound mitigation needs to be on noise sources located west of that structure. Adequate screening for noise sources within this westerly area can be provided by the construction of a 10-foot high cement wall.
21. The Appellant has described her recent unsuccessful attempts to market her property. This includes description of a sale lost about three years ago because the potential purchaser was not willing to live with a view of the District yard. In addition, Ms. Kelson introduced evidence that the asking price for her property has been significantly below her assessed valuation and the average market value for comparable properties. Finally, she testified that her neighbor immediately to the south had abandoned plans to build a new residence because of the adverse effects of the adjacent Water District facility. This evidence is sufficient to establish that the existing District facility has had the consequence of discouraging the permitted residential use of neighboring properties.
22. The Appellant has also raised a number of compatibility issues with respect to the impact of the District's structures. On to the northern half of the developed portion of the District's site its existing maintenance and operations buildings may be somewhat larger than normally permitted agricultural development but are generally comparable to agricultural structures in their overall visual impact. Nonetheless, such facilities and the attendant maintenance yard activities will continue to adversely affect the Kelson and other nearby residential properties unless adequately screened.
23. The uses being proposed by the Water District on the southern half of the property, while they will add a new large building to the complex of structures, would also provide some visual benefits over the existing condition. The one story height of the new building would maintain a residential scale and the largely wooden façade would tend to soften its commercial character. In addition, remodeling the existing building to provide it with a gabled roof would lessen its commercial appearance. Further, replacing the galvanized metal barn currently near the western site boundary with a new inventory building probably also would be a visual upgrade. Nonetheless, the proposal increases the intensity of structural development on the property, including an expansion of areas devoted to parking and a net increase of impervious surfaces to 24% for the parcel as a whole.

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24. While this increase in size and intensity is problematic, we are not persuaded that it is unacceptable in this location. Woodinville-Duvall Road is a busy principal arterial, and the Water District complex is by no means the only commercial or institutional facility in this neighborhood. One may decry arterial strip development as a general phenomenon, but the Water District has made a reasonable attempt to maintain a rural dimension and appearance for its proposed buildings, and its landscaped areas on the southern portion of the site are an attractive amenity of a type unlikely to be encountered in other similar developments. Finally, with adequate screening along the western property line, the office complex proposed for the District on the southern end of the site ought not be unduly impactful on the Appellant's residence. Nonetheless, the District's history of unfettered expansion implies a risk that impacts will later increase beyond the scope contemplated by this application, and conditions must be placed on the District to prevent this kind of unregulated piecemeal growth from continuing to occur.
25. Traffic and circulation concerns have also been raised with respect to this appeal, although in the absence of a traffic study such issues are difficult to adequately analyze. The principal issues appear to be whether the level of site-generated vehicle traffic has been adequately identified, and whether vehicle safety is impaired along the Woodinville-Duvall Road frontage where the two District entries and Ms. Kelson's access driveway all co-exist within an approximately 500-foot frontage. Because these issues merit review, the question arises as to whether a conditional use permit should be issued prior to completion of the traffic study. Our view is that such deferral is workable in this instance because most of the issues under consideration relate to existing conditions. The major impediment to the validity of the traffic study conclusions would be the potential for unlimited future expansion of employment on the site, a matter which is best dealt with as a separate problem.
26. Finally, the Appellant has challenged the issuance by the King County Department of Transportation of a letter exempting the Water District conditional use permit proposal from County traffic concurrency requirements based on a provision of the County's concurrency ordinance that ties its exemption to SEPA exemption standards. The Appellant argues that because the District issued itself a DNS under SEPA, the project cannot be regarded as exempt from SEPA requirements, and a traffic concurrency exemption should not have been granted.
27. We find that the Department of Transportation's concurrency exemption was appropriately issued. WAC 197-11-800 establishes minimum SEPA exemption thresholds, but confers upon local jurisdictions the option to raise these thresholds within their adopted SEPA ordinances. The quantity of new impervious surface proposed under the District's conditional use permit application exceeds the minimum SEPA threshold established by the state regulation, but falls beneath the augmented threshold adopted by King County at KCC 20.44.040.A. Since the concurrency exemption created by KCC 14.70.050.A.2 specifically refers to the thresholds established by the County SEPA ordinance, the Department of Transportation was entitled to rely on these higher local thresholds notwithstanding that the District itself conducted SEPA review pursuant to the lower state default standard.

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CONCLUSIONS.

1. For purposes of reviewing the current conditional use permit application, the existing circumstances at the Water District site against which new impacts are to be measured are defined by the level of development authorized by the 1990 conditional use permit. This includes not only the development limitations imposed by that permit but also its mitigation requirements. In addition, the scope of the 1990 permit is necessarily circumscribed by the proposal submitted by the District in 1990 to the extent that such was relied upon by the County for the mitigation of impacts, as well as by any requirements automatically applicable to the property due to County Code provisions.
2. The purpose of permit condition No. 1 imposed below is to require that prior to any new site development the District shall comply with the unmet terms of the 1990 permit insofar as possible. Where strict compliance appears to be infeasible, substitute conditions have been devised to create compensatory forms of mitigation. For example, it is not realistic to require the District to remove from the site all employees that have been hired since 1990. But this infeasibility will be to some degree compensated by a traffic study focused on the primary impacts that such additional employees create, as well as by the requirement for a soundproof wall adjacent to the maintenance yard to suppress increased noise generation. The soundproof wall in the short term will also mitigate for some of the inadequacies attributable to the Type 1 screen planted in 1990. Further compensation will be provided by requiring new Type 1 trees to be installed at a 20-foot minimum height, which approximately represents the growth that such trees would have experienced had they been properly planted in 1990 and provided with satisfactory maintenance.
3. Under the regulations applicable to this proposal, the nonconforming use legally established at the site in 1990 may be expanded pursuant to the terms of KCC 21A.32.090. This provision allows expansion under authority of a conditional use permit provided that the degree of nonconformance with development standard requirements is not increased and such standards are met to the greatest extent feasible.
4. The substantive conditional use permit standards which the Applicant must meet are stated at KCC 21A.44.040. This section describes the level of review that must be applied to the application to determine whether the proposed use expansion will be compatible with the character of the surrounding neighborhood. In determining such compatibility, it must be remembered that the RA zone in which this and the surrounding properties fall is not exclusively a residential designation but rather is focused on preserving a long term area-wide rural character that also accommodates agricultural, forest and mineral extraction uses. Also relevant in this regard are the provisions of KCC 21A.14.280, which sets standards for industrial development in rural areas, thereby establishing both that some level of intensive commercial type development is to be tolerated in rural areas and setting presumptive standards for its acceptability. It is noted that the Applicant's proposal meets, or can be conditioned to meet, all of the standards listed at KCC 21A.14.280.
5. The new development proposed by the Water District under authority of the instant application is largely located in the southernmost portion of the site adjacent to the Woodinville-Duvall Road. This proposed new development has been scaled and designed to be compatible with the rural character of the area and is not in conflict with nearby development fronting on Woodinville-

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Duvall Road. Given the multiple use nature of the Rural zone and the principal arterial function of the Woodinville-Duvall Road, we conclude that the new development proposed by the Applicant meets the compatibility standard expressed at KCC 21A.44.040.A.

6. As currently configured, adverse impacts from the development now existing on the Water District property discourages the permitted development and use of neighboring properties to the west which are devoted to residential uses. Much of this incompatibility results from the Applicant's failure to abide by the conditions and limitations imposed by the 1990 conditional use permit. With the imposition of appropriate remediation, this conflict with neighboring residential uses can be diminished to an acceptable level and the requirements of KCC 21A.44.040.D can be met. In view of the site's development history, however, effective remediation requires the retention of Hearing Examiner jurisdiction for a period adequate to assure that newly imposed permit limitations and requirements will actually be implemented by the Applicant.
7. The policy considerations which underlie the provisions of KCC 21A.44.040.E and F overlap as applied to this proposal in that the major offsite safety concerns raised by the application relate to issues of vehicular access and circulation. A traffic study focused on these issues, which are largely the product of existing conditions, will be a condition of the permit. If, in fact, the traffic study fails to address these issues adequately, they may be later revisited under the review authorized by retained Hearing Examiner jurisdiction.
8. The remaining requirements for issuance of a conditional use permit stated at KCC 21A.44.040 do not directly bear on this proposal and are presumed to be adequately met. We do not agree with the Appellant that compliance with the requirements of KCC 21A.44.040.C is at issue with respect to this application. The development currently proposed by the Water District will require minimal new site grading and impervious surfaces. Accordingly, the proposal's compatibility with the physical characteristics of the site are not a major concern.
9. If conditioned in the manner required below, the conditional use permit application of the Woodinville Water District meets the requirements of KCC 21A.44.040 and constitutes an allowable expansion of a nonconforming use as permitted by KCC 21A.32.090.

To the extent that the conditions imposed hereunder exceed the specific development standards contained in the zoning ordinance, authority for the imposition of such requirements is based on KCC 20.44.080.B, which directs the Examiner to grant an application "with such conditions, modifications and restrictions as the Examiner finds necessary to make the application...compatible with the environment and carry out the regulations, policies, objectives and goals of the Comprehensive Plan, the community plans, subarea or neighborhood plans, the Zoning Code,...and other official laws, policies and objectives of King County."

DECISION:

The conditional use permit application of the Woodinville Water District, as described in its September 2, 1997, application and modified at the public hearing, is APPROVED, subject to the following conditions of permit approval:

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Remediation; Landscaping.

1. Prior to building permit issuance, the following conditions shall be met in order to effect substantial compliance with the requirements of the 1990 conditional use permit (89-69-C):
 - A. A new landscaping plan, prepared by a landscape architect registered with the State of Washington, shall be submitted to and approved by the Land Use Services Division, Department of Development and Environmental Services. The landscaping plan shall provide for a Type 1 landscape buffer along the western property line from the Woodinville-Duvall Road to the northern edge of the developed portion of the District's property, incorporating the widths and requirements described below. The landscaping plan shall show the height and location of the existing evergreen trees in that area. In between existing evergreen trees, new evergreen trees shall be shown with a height at time of planting of a minimum of 20 feet. The District shall work with DDES to determine which deciduous trees should remain within the landscaping buffer area, and the removal of any deciduous trees shall be approved by DDES. The types of evergreen trees shall be approved by DDES based on survivability at the location proposed for planting.

The landscaping plan shall be subject to the following minimum requirements:

- i. The landscape buffer from the Woodinville-Duvall Road to the southern edge of the new operations building (Building D on the District's site plan) shall have a minimum width of 20 feet. All parking shall be removed from this 20-foot buffer.
- ii. The landscape buffer along the western property line adjacent to the operations yard and the new operations building (Building D) shall have a minimum width of 30 to 50 feet, as indicated on the District site plan. The landscaping plan for this area shall include a berm of 4 to 5 feet in height, with trees planted in a minimum of two rows in an alternating pattern, to maximize the visual buffer.
- iii. A solid 6-foot high wooden fence shall be installed in the center of the landscaped buffer area between the Woodinville-Duvall Road and the new operations building (Building D).
- iv. The existing drainfield area shall be planted with evergreen trees with a height at time of planting of a minimum of 20 feet.
- v. For a period of three years after the installation of the landscaped buffers, the District shall have a landscape architect or other landscape expert approved by the County inspect the landscape buffers and provide a written report to the County regarding the health of the plants, plants to be replaced, and ongoing maintenance. The landscape expert shall inspect the buffers three times each year, with one inspection in spring, one in summer, and one inspection in the fall. The District shall immediately replace any plants that are determined by the landscape expert to be dead or irreparably damaged.

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- vi. The District shall provide a three year maintenance bond for the landscaping.
 - vii. The western boundary of the asphalt surface storage area on the northern edge of the developed portion of the District site shall be screened with evergreen vegetation approved by DDES.
 - viii. A 10-foot high concrete wall for soundproofing shall be constructed along the west side of the property from the northern edge of the paved maintenance yard to the southwest corner of Building D. The wall shall be located along the western edge of the existing pavement approximately 50 feet east of the western property line, except where necessary to effect transition to the back side of Building D.
 - ix. Screening shall be provided to shield any existing outside storage areas that will remain visible from the Kelson residence after construction of the concrete soundproofing wall.
- B. The buffer between the Woodinville-Duvall Road and Building D shall be reconstructed and planted as required by Conditions 1.A.i and iii, above.
- C. The concrete wall required by Condition 1.A.viii, above, shall be constructed from its northern terminus at least as far south as a point parallel to the southern end of Building E (the existing garage and maintenance building).
- D. The screening required by Condition 1.A.ix shall be installed.
- E. Any fill located without authority of a grading permit on the northern portion of the District property shall be removed.
- F. Building E shall be enclosed.
- G. A plan to provide overnight indoor parking for all District vehicles, including an interim plan for temporarily housing or screening any vehicles that cannot be permanently accommodated prior to completion of site construction, shall be submitted to and approved by LUSD, DDES. If required, the site plan may be modified to include the additional construction of a new garage to house up to three vehicles to be located behind (east of) Building E.
- H. A traffic study evaluating entering and exiting vehicle movements and potential conflicts with other driveways in the area, using site trip generation data based on 35 site employees, shall be submitted to and approved by KCDOT. If safety requirements mandate reconfiguration of the site circulation plan, any such alterations shall be approved by LUSD, DDES prior to building permit issuance.

Noise.

2. The western side of the vehicle/storage building (Building E) shall be enclosed and may have a

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maximum of two garage doors. The eastern side of the building shall be enclosed with no limit on the number of garage doors. The building depth may be expanded as needed to enclose the District's truck and trailer combination.

3. The existing and proposed parking stalls along the western property line within the public parking lot shall be located outside the required landscape buffer area. The District may retain the nine existing parking stalls within the rear service yard at their present location.
4. Employees shall be advised to limit the use of their two-way radios while in the service yard. No outdoor speakers are permitted.

Building Construction.

5. The maximum total square footage for each proposed new building, and for each proposed remodeled building, shall be as indicated in the District's application and the plans submitted with the application, unless modification is required by the terms of this permit or an applicable ordinance.
6. The District shall use composition roofing materials for the new administration building (Building B) and the remodeled administration building (Building A).
7. The height of any new structure placed on the site shall not exceed that of the existing barn, which has a height of approximately 30 feet.

Lighting.

8. The Applicant shall submit to LUSD, DDES, for approval, a plan showing all existing and proposed outdoor lighting. Lights shall be designed so that glare shall not leave the subject site. Bollard lighting shall be used in the front parking lot. Security lighting in the maintenance yard area shall be activated by motion sensors. The pole light located between the existing administration building (Building A) and the Woodinville-Duvall Road shall be removed. Within one month of installation of new lighting, the District shall arrange with LUSD for an after-dark inspection of the outdoor lighting.

General.

9. The District shall cease the use of the northern portion of the property for fill or the stockpiling of fill material unless a grading permit is obtained that insures that silt from the fill does not leave the site.
10. No expansion of site employment beyond 35 employees shall occur without issuance of a new conditional use permit.
11. Prior to occupancy of any new buildings all requirements of this permit shall be satisfied, including installation of new landscaping, and the existing barn and trailer unit shall be removed.
12. Three years after the date of issuance of this decision LUSD shall submit to the Hearing Examiner a written report documenting the Applicant's compliance with the terms of this permit

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and applicable ordinances and regulations. Copies of such report shall be provided to the Applicant and Appellant and to their respective attorneys by certified mail. Within 14 days of receipt of the LUSD report the Applicant or Appellant, or their successors in interest, may file with the Examiner written objections to the LUSD findings and request a hearing thereon.

The terms and conditions of this conditional use permit may be modified by the Hearing Examiner to the extent necessary to achieve compliance with permit requirements and applicable regulatory standards. Hearing Examiner jurisdiction is expressly retained for the purpose of providing periodic review of Applicant performance under this permit and effecting any necessary changes to its conditions and requirements.

13. Within 14 days of the issuance of this decision any party may request revision of the foregoing conditions based on their alleged infeasibility or impracticality. Such requests should describe how the purpose of the condition under challenge may be met by means of a less burdensome or more effective alternative. For purposes of filing further appeals, the date of decision issuance for the conditional use permit shall be deemed deferred to include this 14-day comment period plus any extensions thereof granted by the Examiner in order to review revisions proposed.

ORDERED this 19th day of April, 1999.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 19th day of April, 1999, to the parties and interested persons named below:

Joseph Allen
Bob Bandarra
Lee Beard
Stephen Benisuik
Brent Carson
Hermina Ehrlick
Barbara Kelson
Rosemary Larson
Galen Page
Kenneth Pick

Mike Ruark
Tim Schriever
Sydney Wills
Greg Borba
John Briggs
Tracy Daniels
Gary Kohler
Sherie Sabour
Randy Sandin

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding conditional use permit application appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

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MINUTES OF THE MARCH 31, 1998, AND THE REOPENED MARCH 31 AND APRIL 7, 1999, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97AC046 – WOODINVILLE WATER DISTRICT.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Barbara Kelson, Tim Schriever, Mike Ruark, Robert Bandarra, Ken Pick; Stephen Benisuik; Joseph Allen, Sydney Wills; Galen Page, Rosemary Larson, Brent Carson, Gary Kohler, and Sherie Sabour.

The following exhibits were offered and entered into the hearing record **March 31, 1998:**

- Exhibit No. 1 Department of Development and Environmental Services staff report, prepared for the March 31, 1998 public hearing of file no. L97AC046 – Woodinville Water District, with additional attachments submitted to Hearing Examiner on March 4, 1998 and on March 11, 1998
- Exhibit No. 2 DDES Report and Decision, File No. L97AC046, dated December 15, 1997
- Exhibit No. 3 Conditional Use Permit file
- Exhibit No. 4 Appeal of CUP decision, received December 19, 1997
- Exhibit No. 5 5 pages of photographs of Woodinville Water District buildings, labeled 5a-5b-5c-5d-5e
- Exhibit No. 6 81 Kelson photographs taken from residence, showing various views (and blockage of views) of the Woodinville Water District buildings, grounds (natural and land-fill), and wetland areas taken over a period of years
- Exhibit No. 7 Realty listing for commercial properties in area of WWD development, dated February 22, 1998
- Exhibit No. 8 Description of proposed CUP
- Exhibit No. 9 Table from Institute of Traffic Engineers manual
- Exhibit No. 10 June 20, 1997 letter
- Exhibit No. 11 Mr. Schriever's land use analysis dated March 17, 1998
- Exhibit No. 12 City of Woodinville zoning code map showing commercial and industrial properties in area
- Exhibit No. 13 Comment letter, dated March 30, 1998, from Nick & Tanya Soltys to Hearing Examiner
- Exhibit No. 14 Comment letter, dated March 30, 1998, from Joseph R. Allen to DDES
- Exhibit No. 15 Woodinville Water District plot plan
- Exhibit No. 16 Woodinville Water District site plan
- Exhibit No. 17 Woodinville Water District photos of site (keyed to exhibit no. 16)
- Exhibit No. 18 Drawing OF WWD's proposed administration building
- Exhibit No. 19 WWD architectural site plan
- Exhibit No. 20 WWD landscape plan from 1990 building plan

The following exhibits were offered and entered into the hearing record **March 31, 1999:**

- Exhibit No. 21 Letter from Linda Hiney, re: Kelson property, dated March 24, 1999
- Exhibit No. 22 Landscape plan from Kelson's landscape engineer (name not disclosed)
- Exhibit No. 23 Article from "Woodinville Weekly", re: water district meeting schedule, March 23, 1999

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- Exhibit No. 24 Woodinville Water District's "1992 Comprehensive Water Plan"
- Exhibit No. 25 Letter from Schriever to Carson, re: traffic volumes, dated March 24, 1999
- Exhibit No. 26 Photos of landscaping and dead trees on water district property, taken from Kelson home (6 total)
- Exhibit No. 27 New site plan for Woodinville Water District
- Exhibit No. 28 Shriever's sight line study
- Exhibit No. 29 Photocopies of tree heights, March 1999
- Exhibit No. 30 King County Environmental Checklist
- Exhibit No. 31 Letter from Army Corps of Engineers to Mr. King, dated September 24, 1998
- Exhibit No. 32 Woodinville zoning map
- Exhibit No. 33 Letter from Hoffman (KC DOT) to Carson, dated 3/25/99
- Exhibit No. 34 Letter to Lebaron Page from DDES, dated March 16, 1998
- Exhibit No. 35 Metroscan assessment of Kelson property (not dated)
- Exhibit No. 36 King County Dept. of Assessments' assessment of Kelson property, dated August 22, 1998 and September 17, 1997

The following exhibits were offered and entered into the hearing record on **April 7, 1999**:

- Exhibit No. 37 DDES proposal
- Exhibit No. 38 Appellant's Revised List of Proposed Mitigation Measures, dated April 7, 1999

The following exhibit was entered pursuant to administrative continuance on **April 9, 1999**:

- Exhibit No. 39 Letter dated April 9, 1999, from Rosemary A. Larson to Hearing Examiner with attached proposed conditions